

FILED

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

AUG 04 2004

**CLERK
U.S. BANKRUPTCY COURT
By DEPUTY CLERK**

In the Matter of the Adoption
of Local Bankruptcy Rules

GENERAL ORDER NO. 04- 02

ORDER ADOPTING AMENDMENTS TO LOCAL BANKRUPTCY RULES

In accordance with the United States District Court's Miscellaneous General Order 880, dated March 18, 2003, which grants this court the authority to adopt amendments to its Local Bankruptcy Rules,

IT IS ORDERED that Local Bankruptcy Rules 2090-1, 3002-1, 5005-2, 5075-1, 9021-1 and 9075-1 are amended and adopted, effective December 1, 2004. Copies of the amended rules, and a summary of the amendments made, are attached hereto.

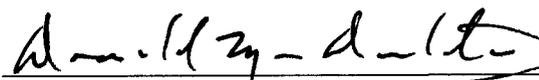
DATED: August 2, 2004

BY THE COURT



HERBERT A. ROSS

United States Bankruptcy Judge



DONALD MacDONALD IV

Chief United States Bankruptcy Judge

Serve: W. Wolfe, Clerk of Court
C. Davidson, Librarian
T. Yerbich, Esq. (for distribution)

Summary of Amendments to AK LBRs

- AK LBR 2090-1(c): This paragraph was amended to make District of Alaska Rule 83.1(I) [Professional Conduct], applicable to attorneys appearing before the Bankruptcy Court. The professional conduct provisions were previously incorporated in the AK LBRs, but when Rule 83.1 was amended, corresponding amendments were not made to LBR 2090-1. The amendment to LBR 2090-1 corrects this inadvertent omission.
- AK LBR 3002-1(f): Subsection (1) has been amended to clarify that a paper copy of any proof of claim filed in this court must be served by first class mail on the parties who are to receive service of the claim. Newly added subsection (3) clarifies that this service requirement applies to creditors filing their claims electronically.
- AK LBR 5005-2(e): Subsection (2) has been amended to reflect that there are exceptions in the LBRs to electronic service (e.g., as stated in LBR 3002-1(f), above).
- AK LBRs 5005-2(d)(4), (d)(5); 5075-1(b); 9021-1(c)(1), (f), and 9075-1(c) have been amended to eliminate the requirement of submitting stamped envelopes for service of orders by the court. The majority of the court's orders are now served electronically, via the CM/ECF system.

Rule 2090-1 Admission and Practice of Attorneys

(a) **Admission to Practice.** Any attorney who is admitted to practice law in the United States District Court for the District of Alaska is admitted to practice in this court.

(b) **Practice by Attorneys Not Admitted in District Court.**

(1) [A] Any attorney who is a member in good standing of the bar of any United States court or the highest court of any state or territory of the United States, may be permitted upon *ex parte* application to appear in a particular case.

(i) An original certificate of good standing or a certified copy from the state court or bar governing or regulating admission in the territory where the applicant has been admitted to practice must be filed with the application.

(ii) The court may waive the requirement of application by an attorney not admitted in the United States District Court for the District of Alaska in the interest of expediency and reduction of costs where the participation is limited and the matter is likely to be resolved without extensive hearings.

[B] The court may require designation of local counsel to participate, sign pleadings, and receive service of notice should there be any problem with the cooperation, responsiveness, or accessibility of an attorney not admitted to practice in the United States District Court for the District of Alaska.

(2) Any attorney representing the United States (or any of its agencies) may appear and participate in particular cases without submitting an application as set forth above. If the government has both local and non-local attorneys appearing in a matter, service must be made on both the local and non-local offices unless the court orders otherwise.

(c) **Local District Rules Adopted.** District of Alaska Local Rules 83.1(g)-(i) and 83.2 apply to all attorneys practicing before the bankruptcy court.

Related Provisions:

- | | |
|---------------|-----------------------|
| D.AK LR 83.1 | Attorneys |
| D.AK LR 83.2 | Student Practice Rule |
| AK LBR 9010-1 | Appearances |

Rule 3002-1 Claims

(a) **Place of Filing.** Proofs of claim or interest must be filed with the Clerk of the Bankruptcy Court, Suite 138, 605 West Fourth Avenue, Anchorage, Alaska 99501-2296 or at the Office of the Deputy Clerk of the United States District Court, 101 12th Avenue, Room 370, Box 1, Fairbanks, Alaska 99701.

(b) **Copies to be Filed.** [*Abrogated*]

(c) **Conformed Copies of Filed Claims.** [*Abrogated. See Official Form 10*]

(d) **Claims Arising from Rejection of Executory Contracts.**

(1) Claims arising from the rejection of executory contracts must be filed on or before the last date for filing proof of claims or thirty (30) days after entry of the order authorizing rejection, whichever date is later.

(2) Notice of the 30-day bar date must be provided by the debtor or the trustee, as appropriate, within five (5) days of the order rejecting the executory contract.

(e) **Claims in Chapter 7 Cases That Supersede Chapter 11 and Chapter 13 Cases.**

[*Abrogated. See Rule 1019, Federal Rules of Bankruptcy Procedure.*]

(f) **Service of Proofs of Claim on Debtors/Trustees.**

(1) In all cases, a creditor filing a proof of claim must serve a legible, complete paper copy of the claim, including a copy of all supporting documentation, by first class mail on the debtor's attorney, or the debtor if appearing without counsel, and the trustee, if appointed.

(2) If the claim is a claim for wages, salary or other compensation, the creditor must include the creditor's full social security number on the copy served on the trustee, if one has been appointed.

(3) Notwithstanding the provisions of AK LBR 5005-2(e)(2), if a proof of claim is filed electronically, the creditor filing the claim must serve a paper copy of its claim, by first class mail, on the persons listed in paragraph (f)(1).

(g) **Section 506(b) Claims in Chapter 13 Cases.**

(1) A secured creditor having a claim for post-petition fees, costs or charges under § 506(b) of the Code, which claim is to be paid by the trustee under the terms of the plan, must, not later than thirty (30) days after entry of the order confirming the plan:

[A] file with the court an application for allowance of the claim, setting forth the amount of the post-petition fees, costs and charges claimed to be due; and

[B] transmit the application to the United States trustee; and

[C] serve it on—

(i) the debtor,

(ii) trustee,

(iii) the five (5) largest unsecured creditors, and

(iv) any creditor having or claiming to have an interest in the property securing the claim.

(2) A party objecting to the application for allowance of post-petition fees, costs and charges may serve and file an objection within fifteen (15) days after service of the application.

(3) If no objection is filed as specified in paragraph (g) (2), the application for allowance of post-petition fees, costs or charges will be deemed approved or allowed without further order of the court.

Related Provisions:

11 U.S.C. § 501 Filing Proofs of Claim

11 U.S.C. § 502 Allowance of Claims

11 U.S.C. § 506	Determination of Secured Status
11 U.S.C. § 507	Priorities
11 U.S.C. § 509	Claims of Co-debtors
FRBP 1019(2), (3)	Conversion, New Filing Periods, Claims Filed in Superseded Cases
FRBP 3001	Proof of Claim, General Requirements
FRBP 3002	Filing Proof of Claim or Interest
FRBP 3003	Filing Proof of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Cases
FRBP 3004	Filing of Claims by Debtor or Trustee
FRBP 3005	Filing of Claim by Co-debtor
FRBP 3006	Withdrawal of Claims
FRBP 3007	Objections to Claims
FRBP 3008	Reconsideration of Claims
FRBP 5005	Filing and Transmittal of Papers
AK LBR 1009-1	Amendment of Schedules and Matrix
AK LBR 3003-1	Filing Proofs of Claim in Chapter 9 and 11 Cases
AK LBR 3004-1	Filing Proofs of Claim by Debtor or Trustee
AK LBR 5005-1	Place of Filing
AK LBR 5005-2	Electronic Filing
Official Bankruptcy Form 10	— Proof of Claim General Form
AK LBF 13	Notice of Objection to Claim and Notice of Hearing Thereon

Rule 5005-2 Electronic Case Filing

(a) Procedures.

(1) The filing of documents in electronic format will be in accordance with this rule and the electronic filing procedures promulgated by the Clerk of the Court.

(2) Participants in the Case Management/Electronic Case Filing ("CM/ECF") System are responsible for ensuring that current filing procedures are followed.

(b) Registration of Attorneys.

(1) Registration.

[A] Each attorney admitted to practice before the court, including those attorneys who have been admitted *pro hac vice* under AK LBR 2090-1(b), is entitled to one CM/ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System.

[B] An attorney may become registered to participate in the CM/ECF System upon completion of training and submission of an Attorney Certification for CM/ECF form to the court.

(2) *Consent to Electronic Notice and Service.* Participation in the CM/ECF System by receipt of a password from the Court, constitutes:

[A] a request for service of notice electronically under Rule 9036, Federal Rules of Bankruptcy Procedure; and

[B] consent to receive notice and service by electronic means in each case in which a formal entry of appearance as a party or attorney for a party has been made.

(3) Unauthorized Use of Passwords.

[A] No participant may knowingly permit or cause to permit the participant's password to be utilized by anyone other than an authorized employee of the participant's law firm.

[B] No person may knowingly utilize or cause another person to utilize the password of a registered attorney unless the person is an authorized employee of the law firm.

(4) Compromised Password.

[A] Each participant in the CM/ECF System is responsible for maintaining the integrity of the participant's password.

[B] In the event a participant has reason to believe that the password issued to the participant has been compromised or otherwise may be subject to use by an unauthorized person, the participant must immediately:

(i) cancel the existing password and issue a new password; and

(ii) notify the Clerk of the Court in writing of the change.

(5) Withdrawal.

[A] A participant may withdraw from participation in the CM/ECF System by providing the Clerk of Court with written notice of withdrawal.

[B] Upon receipt, the Office of the Clerk will immediately cancel the participant's password and delete the participant from any applicable electronic service list.

(c) Signatures.

(1) *Attorney.* The electronic filing of a petition, pleading, motion or other paper by an attorney who is a registered participant in the CM/ECF System constitutes the signature of that attorney under Rule 9011, Federal Rules of Bankruptcy Procedure.

(2) Debtors.

[A] For all petitions, lists, schedules and statements requiring the signature of the debtor(s)

that are filed electronically, a Declaration Re: Electronic Filing, AK LBF 37, must be prepared by the participant, bearing the original signatures of the debtor(s) and their attorney.

[B] The declaration constitutes the debtor(s) original signatures for filing purposes.

[C] The original declaration must be:

(i) signed before the petition if filed; and

(ii) conventionally filed with the Bankruptcy Court within fifteen (15) days of the date the petition is electronically filed.

(3) *Other Documents*. Unless the pleading or paper being electronically filed is an imaged (scanned) document bearing a digital copy of the original signature, it must indicate that it has been signed by means of a signature designation: *e.g.*, "/s/ Jane Doe."

(4) *Verified Documents*.

[A] Verified documents (affidavits or declarations under penalty of perjury as provided in 28 U.S.C. § 1746), are to be filed electronically.

[B] Unless the verification of the document is being made by the attorney who is electronically filing it (use of the attorney's password constitutes signature by the attorney), the original verified document must be hand delivered or placed in the mail to the clerk's office within one (1) business day of the date of electronic filing, with a copy of the Notice of Electronic Filing for that document attached.

[C] The clerk will retain the original document in the permanent records of the court.

(d) Electronic Filing.

(1) *Mandatory Electronic Filing*.

[A] Except as expressly otherwise provided in this Rule or in exceptional circumstances that prevent a participant from filing electronically, all petitions, motions, pleadings, memoranda of law, or other documents required to be filed with the court in connection with a case assigned to the CM/ECF System must be electronically filed by participants in the CM/ECF System.

[B] Parties and attorneys who are not participants in the CM/ECF System will continue to file all pleadings and papers conventionally.

(2) *Related Documents*. All documents must be filed separately, except that exhibits to a document must be filed as attachments to that document under the same docket number.

[A] Where documents related to a motion or other pleading are being filed concurrently with the motion or other pleading, *e.g.*, a motion, memorandum of law and a supporting affidavit, the related documents must be filed separately and shown as being a document related to the motion or other pleading.

[B] If documents being submitted electronically have lengthy exhibits, the filing of relevant excerpts of the exhibits is preferred and permitted without prejudice to the right of any party to file additional excerpts or the complete exhibit with the court at any time.

(3) *Emergency Motions*.

[A] Emergency motions, supporting pleadings and objections are to be filed electronically as provided in this rule.

[B] The party filing the motion must promptly advise the judge's law clerk or secretary of the filing telephonically.

(4) *Proposed Orders, Findings and Judgments*. Unless otherwise ordered by the court, participants in the CM/ECF System must submit all proposed orders, findings of fact and conclusions of law and judgments electronically, in accordance with the CM/ECF Administrative Procedures Guide.

(5) *Calendar Requests*. Unless otherwise ordered by the court, participants in the CM/ECF System must submit all Bankruptcy Court Calendar Requests, AK LBF 7, electronically, in accordance with the CM/ECF Administrative Procedures Guide.

(e) **Service**.

(1) The filing party must serve the pleading or other paper being electronically filed upon all persons entitled to notice or service in accordance with otherwise applicable rules.

(2) Except as otherwise provided by these rules, if a person entitled to notice or service is a registered participant in the CM/ECF System in the case in which the pleading or other paper is being filed, service by electronic means of the Notice of Electronic Filing is deemed the equivalent of service of the pleading or other paper by first class mail, postage prepaid.

(3) Notwithstanding the foregoing, service of a summons and complaint in an adversary proceeding or an involuntary bankruptcy proceeding and a motion under Rule 9014 must continue to be made under Rule 7004, Federal Rules of Bankruptcy Procedure.

(f) **Docketing**.

(1) *Entry on Docket*. The electronic filing of a pleading or other paper in accordance with CM/ECF System Procedures constitutes entry of that pleading or other paper on the docket kept by the clerk under Rule 5003, Federal Rule of Bankruptcy Procedure.

(2) *Notice to Filing Party*. Whenever a pleading or other paper is filed electronically in accordance with CM/ECF System Procedures, the System will automatically generate a "Notice of Electronic Filing" by electronic means at the time of docketing.

(3) *Entry of Orders and Judgments*.

[A] The Office of the Clerk will enter all orders, decrees, judgments, and proceedings of the court in accordance with CM/ECF System Procedures, which constitutes entry of the order, decree, judgment, or proceeding on the docket kept by the clerk under Rule 9021, Federal Rules of Bankruptcy Procedure.

[B] On all orders submitted electronically, the Office of the Clerk will place the notation "FILED ON ____" on the first page of the order, and will insert the date that the order is entered on the docket. The date so inserted will be the equivalent of the conventional "date filed" stamp for all purposes.

(4) *Titles*. The person electronically filing a pleading or other document is responsible for designating a title for the document by using one of the categories contained in the CM/ECF System.

(g) **Documents not to be Filed Electronically**. The following documents are to be filed conventionally and not electronically unless specifically authorized by the court:

(1) *Documents to be Filed under Seal*.

[A] A motion to file document(s) under seal is to be filed electronically; however, the actual document(s) to be filed under seal must be filed conventionally.

[B] A paper copy of the motion to file document(s) under seal or, if the motion has been granted, a paper copy of the order authorizing the document(s) to be filed under seal, must be attached to the document(s) to be filed under seal at the time the documents are delivered to the Office of the Clerk.

(2) *Exhibits to Pleadings*.

[A] Wherever possible, documents being filed as exhibits, including but not limited to leases, notes, and the like, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the exhibit using Portable Document Format (PDF).

[B] Exhibits that are not available in electronic form are to be filed conventionally, attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the exhibit(s) relate.

(3) *Proofs of Claim*. Proofs of Claim and all supporting documents are to be filed conventionally.

(4) *Summons to be Issued by the Clerk*. All summons to be issued by the Clerk are to be filed conventionally.

(5) *Trial and Hearing Exhibits*.

[A] Exhibit lists, to the extent that the filing thereof is otherwise required by applicable rules of bankruptcy procedure, are to be filed electronically.

[B] The actual exhibits are to be submitted conventionally as provided by otherwise applicable rules of bankruptcy procedure.

(6) *Transcripts*.

[A] Whenever possible, transcripts, or the relevant portions thereof, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the transcript using Portable Document Format (PDF).

[B] Transcripts that are not available in electronic form are to be filed conventionally, attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the transcript(s) relate.

(7) *Report of Balloting*. The certification of balloting, with original ballots attached, filed in accordance with AK LBR 3018-1, must be filed conventionally.

(8) *Statement of Social Security Number*. The Statement of Social Security Number submitted in accordance with Rule 1007(f), Federal Rules of Bankruptcy Procedure, must be submitted conventionally.

(9) *Service of Conventionally Filed Documents*. Pleadings or other documents filed conventionally under this subsection must be served in the manner provided for in, and on those parties entitled to notice in accordance with, the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules except as otherwise provided by order of the court.

(h) **Fees**. Unless other arrangements are made with the Clerk of Court, any required fee for a document filed electronically must be mailed to the Clerk of the Court not later than the next business day or hand delivered to the Clerk of the Court not later than the second business day next immediately following the filing.

(i) **Copies and Certified Copies**. Conventional copies and certified copies of electronically filed documents may be obtained at the Office of the Clerk, 605 West Fourth Avenue, Room 138, Anchorage, Alaska 99501-2296. A fee for copying and certification will be charged and collected in accordance with 28 U.S.C. § 1930.

(j) **Technical Failures**.

(1) If a participant in the CM/ECF System is unable to transmit a time-critical document for electronic filing, due to technical failure of either the CM/ECF System or the participant's system, or due to internet congestion or internet service provider problems, the participant must promptly contact the Clerk of the Court and make arrangements for conventional filing of the document.

(2) Unless exceptional circumstances exist that prevent the document from being transmitted during regular business hours, as defined in AK LBR 5003-1(d), the participant must make every effort to transmit any time-critical document during regular business hours on the date the document is due.

(k) Consequences for Noncompliance.

(1) *Effect of Failure to Make Payment.*

[A] In the event of nonpayment of the fee for filing a petition, the petition may be dismissed by the court after a hearing on shortened time of not less than five (5) days notice.

[B] In all other matters, if the required fee is not paid as provided in subsection (h), the motion or application for which the fee is required will be deemed withdrawn by the party making the motion or application and, except as may be otherwise ordered by the court for cause, no further proceedings on the motion or application will take place.

(i) Notice of the deemed withdrawal will be given electronically by the Clerk of the Court to all interested parties in the case who have requested notice by electronic means.

(ii) The party who filed the motion or application must, no later than two (2) business days thereafter, give notice of the deemed withdrawal to all parties in interest to whom notice of the motion or application was given.

(2) *Effect of Failure to File Declaration Re: Electronic Filing.* In the event that a participant fails to timely file the Declaration Re: Electronic Filing, AK LBF 37, as provided in paragraph (c)(2), the petition may be dismissed by the court after a hearing on shortened time of not less than five (5) days notice.

(3) *Other Consequences.* In addition to the foregoing, any misuse of the CM/ECF System, or intentional noncompliance with its requirements, may result in revocation of the participant's login and password privileges and/or the imposition of sanctions as provided in District of Alaska Local Rule 1.3.

Related Provisions:

FRBP 1007	Lists, Schedules, and Statements; Time Limits
FRBP 5005	Filing and Transmittal of Papers
FRBP 7005	Service and Filing of Pleadings and Other Papers
AK LBR 1002-1	Petitions
AK LBR 1005-1	Caption of Petitions
AK LBR 1007-1	Matrix
AK LBR 1007-2	Form of Schedules and Statements
AK LBR 1009-1	Amendment of Schedules and Matrix
AK LBR 2002-1	Notices
AK LBR 3002-1	Claims
AK LBR 7005-1	Electronic Service
AK LBR 9004-1	Form of Pleadings and Other Papers
AK LBR 9013-1	Briefs; Memoranda
AK LBR 9021-1	Orders, Findings, Conclusions, Judgments
AK LBR 9036-1	Request for Notice by Electronic Transmission
AK LBR 9070-1	Number of Copies
AK LBF 37A	Declaration re: Electronic Filing (Individual)
AK LBF 37B	Declaration re: Electronic Filing (Corporation/Partnership/LLC)

Rule 5075-1 Delegation of Ministerial Orders and Notices

(a) **Delegation.** The Clerk of the Court and those deputies as the Clerk may designate are authorized to sign and enter without further direction the following ministerial orders and notices:

(1) Orders and notices that establish meeting and hearing dates required or requested by a party in interest under the Code, including orders which fix the last dates for the filing of pleadings by parties in interest as to various matters, including objections to discharge and confirmations of plans, complaints to determine dischargeability of debts, and proofs of claim.

(2) Final decrees closing cases and discharging the trustees in all cases for which the trustee has reported that there is no estate to administer or for which an order has been entered by a Judge approving the final report and account of the trustee.

(3) All motions and applications in the clerk's office for issuing summonses, subpoenas, or other mesne process, for issuing final process to enforce and execute judgments, and for other proceedings which do not require allowance or order of the court, are grantable as a matter of course by the clerk; but the action of the clerk may be suspended or altered or rescinded by the court upon cause shown.

(4) *[Deleted]*

(5) Form notices concerning: the entry of an order for relief, the dismissal of a case, the revocation of the discharge of a debtor, the filing of amended schedules, conversion of the case, asset determination and the need to file proofs of claim, and form notice for fees due.

(6) Orders permitting the payment of filing fees in installments and fixing the number, amount, and date of payment of each installment.

(7) Orders on consent for the substitution of attorneys.

(8) Orders on consent satisfying a judgment.

(9) Orders entering default for failure to plead or otherwise defend (as provided in Rule 55(a), Federal Rules of Civil Procedure).

(10) Judgments by default in the circumstances and upon the proof specified in Rule 55(b)(1), Federal Rules of Civil Procedure, including an affidavit that the person against whom judgment is sought is not an infant or incompetent person, and an affidavit under the Soldiers' and Sailors' Civil Relief Act of 1940 (as amended) that the defendant is not in the armed forces.

(11) Routine orders authorizing the appointment of attorneys, accountants, and auctioneers in Chapter 7 cases, provided the allowance of compensation is left for later determination by the court, and provided the pleadings or application to employ do not indicate a potential conflict of interest.

(12) Orders substituting a transfer of a proof of claim for the original claimant pursuant to Bankruptcy Rule 3001(e)(2) upon notice to the original claimant of the filing of the evidence of transfer and a failure by the original claimant to object.

(13) Orders for compliance requiring timely filing of schedules and statements and Orders for compliance with filing requirements and notices of intent to dismiss for failure to comply.

(14) Discharge orders in Chapter 7 cases.

~~(b) Service. *[Abrogated]*~~

Related Provisions:

AK LBR 5005-2 Electronic Case Filing

Rule 9021-1 Orders, Findings, Conclusions, Judgments

(a) **Time for Submission; Prohibition Against Premature Submission.** When dealing with motions, no order or findings should be submitted until after the court has ruled, unless the time for opposition has passed and either:

(1) no opposition has been filed and served;

(2) neither party has asked for a hearing on the opposed matter and ten (10) days have passed after the date objections were due to be filed; or

(3) the order is submitted in conjunction with an *ex parte* motion.

(4) In instances where no opposition has been filed or where neither party has requested a hearing, it is the responsibility of the moving party to submit an appropriate order or findings for the court's consideration no later than fifteen (15) days after the date objections were due to be filed.

(b) Form and Content.

(1) All orders, findings of fact and conclusions of law, judgments, and decrees, unless otherwise directed by the court are required to be in writing, and, when not entered by the clerk as provided in Rule 58, Federal Rules of Civil Procedure, will be prepared by the attorney obtaining the order, judgment or decree, or the attorney representing the prevailing party.

(2) Every judgment or order, including stipulated matters, must be set forth on a separate document from the motion or other request for the order, and must set forth with particularity the terms of the order.

(3) Unless otherwise ordered, the prevailing party will submit a judgment following entry of any dispositive order.

(4) When ordered by the court:

[A] proposed findings of fact must list the name of the witness and/or the number of the exhibit supporting the finding; and

[B] proposed conclusions of law must cite legal authority supporting the conclusion.

(5) On all orders, judgments or decrees prepared for signature, the name of the ordering judge, if known, must be typed immediately under the signature line prior to presentation for signature.

(6) All orders, judgments or decrees must include, at the end of the order, judgment or decree following the signature of the ordering judge, or the clerk, if appropriate, a "Service List" of the parties, or the party's attorney, to be served with a copy of the order, judgment or decree.

(c) Filing, Service and Comment.

(1) The attorney preparing the order, findings of fact and conclusions of law, judgment or decree must file the original document with the clerk with a certificate of service that copies have been served on any party who opposed the order and all parties who participated in the hearing from which the order arose, and

(2) [A] Upon receipt of an order, findings and conclusions, judgment or decree, the court may enter the pleading.

[B] The opposing party, if not satisfied with the document, may move for amendment, alteration or other modification in accordance with Rules 52(b) or 59(e), Federal Rules of Civil Procedure, applicable through Rules 7052 and 9023, Federal Rules of Bankruptcy Procedure.

(3) The court may allow parties to submit proposed findings, orders and judgments on a computer disk in a computer language that is compatible with the court's computer system.

(d) Orders Lodged After a Hearing.

(1) If an order is submitted after a hearing, the hearing date must be set forth in the first paragraph of the proposed order.

(2) The lodging of the order constitutes counsel's representation that the form of the order fairly reiterates the substance of the ruling.

(e) **Ex-Parte Order.** An order submitted upon *ex-parte* application must be clearly labeled "*ex-parte*."

(f) Orders Prepared by the Court. [Abrogated]

Related Provisions:

FRBP 7052	Findings by the Court
FRBP 8002	Time for Filing Notice of Appeal
FRBP 9021	Judgment
FRBP 9022	Notice of Judgment or Order
FRBP 9023	New Trials; Amendment of Judgments
AK LBR 5005-2	Electronic Filing
AK LBR 5075-1(b)	Delegation of Ministerial Orders and Notices
AK LBR 9013-2(b)	Motion for Reconsideration

Rule 9075-1 Hearings; Trials

(a) Places of Holding Court.

(1) The Bankruptcy Court is located in Anchorage. Hearings and trials are scheduled as needed in Fairbanks, Anchorage, Juneau, Ketchikan, and Nome.

(2) Divisional offices are maintained in the United States District Court Office of the Clerk in Fairbanks and Ketchikan. Operation of these divisional offices is subject to budgetary constraints that may require their closure without notice.

(b) No Hearing Required.

(1) Absent objection, an actual hearing is not required for any "notice and hearing" matter except as otherwise required by the Bankruptcy Code or Federal Rules of Bankruptcy Procedure.

(2) Among the matters that require actual hearing are motions:

[A] to obtain conversion or dismissal of a case where the Code requires a hearing;

[B] objections to claims; and

[C] motions to sell free and clear of liens.

(3) [A] The moving party must, *ex parte*—

(i) lodge a proposed order consistent with AK LBR 9021-1, and

(ii) file a certificate that no objections were made, conforming to AK LBF 4.

[B] If the court determines a hearing is necessary, the court will inform the moving party of the date of the hearing.

(c) Hearings and Calendar Requests.

(1) If an objection is filed, either party may request a hearing date from the court.

[A] Hearing dates are obtained from the office of the judge by submitting a completed Bankruptcy Court Calendar Request Form (AK LBF 7) available from the clerk's office.

~~[B] [Abrogated]~~

[C] The matter may not be promptly scheduled unless a hearing date has been requested from the court in accordance with this paragraph.

(2) [A] Unless one of the parties files a calendar request or unless a hearing is required by a rule or order of the court, a matter is deemed submitted for the court's consideration five (5) days after the time for filing objections has passed.

[B] Once a matter is deemed submitted, it is the responsibility of the moving party to submit a proposed order to the court, consistent with AK LBR 9021-1.

(3) [A] Written notice of the hearing must be filed and served on the opposing party, trustee, debtor, or debtor's attorney no later than seven (7) days prior to the date of the hearing.

[B] The matter may not be heard, or may be decided adversely to the non-complying party if the notice is not filed and served.

(4) [A] Unless otherwise ordered by the court, in any matter requiring less than seven (7) days notice, in addition to written notice the initiating party must give telephonic notice of the hearing on or before the same day as written notice is given, to the opposing party, debtor and trustee, or their attorneys, if they are represented.

[B] Telephonic notice is not required if the party upon whom it should otherwise be made, has not provided and maintained a current telephone number in the appropriate manner in the official Bankruptcy Court file.

[C] An affidavit or declaration of telephonic notice must be filed with the court at the same time written notice of hearing is filed.

(d) **Nonappearance by Requesting Party.** Whenever a party who has requested a hearing does not appear in person or by attorney at the hearing, the court may award the opposing party attorney fees occasioned by the non-appearance.

(e) **Affidavits/Declarations, Witnesses, and Expected Testimony.**

(1) Unless otherwise ordered by the court, to the extent not earlier served and filed, not later than seven (7) business days before the hearing, each party must comply with the requirements of Rule 26(a)(3), Federal Rules of Civil Procedure, and serve and file with the court:

[A] all affidavits or declarations under penalty of perjury upon which the propounding party intends to rely; and

[B] a listing of all exhibits intended to be introduced into evidence.

[C] Objections as provided in Rule 26(a)(3), Federal Rules of Civil Procedure must be served and filed not less than three (3) business days before the hearing.

(2) Service under this subsection must be made by personal delivery or by other means that ensures that the recipient thereof receives the materials on or before the due date.

(3) Unless otherwise agreed to by stipulation of the parties or order of the court, no affidavit or declaration under penalty of perjury will be admitted unless the affiant or declarant is made available for cross-examination by the opposing party.

Related Provisions:

11 U.S.C. § 102(1)	Construction of "Notice and Hearing"
FRCP 26	General Provisions Governing Discovery; Duty of Disclosure
AK LBR 2002-1	Notices
AK LBR 5071-1	Continuances
AK LBR 9013-2	Motion Practice
AK LBR 9015-1	Jury Trials
AK LBR 9021-1	Orders, Findings, Conclusions, Judgments
AK LBR 9036-1	Request for Notice by Electronic Transmission
AK LBR 9076-1	Telephonic Participation by Parties in Interest
AK LBF 4	Certificate of No Objection
AK LBF 7	Bankruptcy Court Calendar Request
AK LBF 10	Notice of Hearing on Application for _____
AK LBF 12	Certificate of Mailing of Notice of Hearing
AK LBF 24	Notice of Hearing
AK LBF 32	Request for Notice by Electronic Transmission